

August 6, 2001

**VIA FEDERAL EXPRESS**

Ms. Deena Sheppard-Johnson, SR-6J  
Enforcement Specialist  
Remedial Enforcement Support Section  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, IL 60604

US EPA RECORDS CENTER REGION 5



**AUG 07 2001**

**Re: Chemical Recovery Systems Superfund Site, Elyria, Ohio—Lancaster Colony Corp./  
Barr, Inc.'s Response to U.S. EPA Information Request Under Section 104(e) of CERCLA**

Dear Ms. Sheppard-Johnson:

Lancaster Colony Corporation hereby responds to U.S. EPA, Region 5's Request for Information pursuant to Section 104(e) of CERCLA dated March 2, 2001 (hereinafter "Information Request"). Lancaster Colony received the Information Request on June 21, 2001. Associate Regional Counsel Thomas Nash agreed that Lancaster Colony could have 45 days, or until August 7, 2001, to respond to the Information Request.

**GENERAL OBJECTIONS**

Lancaster Colony makes the following general objections to U.S. EPA's Information Request. These objections will not be repeated in answers to specific requests, but are applicable to each request as appropriate. Should U.S. EPA require clarification of any objection made herein, the Agency should promptly contact undersigned counsel for Lancaster Colony for further explanation.

1. Lancaster Colony objects that the Information Request is addressed to "Lancaster Colony Corp., f/k/a Barr, Inc." Please be advised that Lancaster Colony was not formerly known as Barr, Inc. Barr is a subsidiary of Lancaster Colony, and the Information Request should have been addressed solely to Barr, Inc. Accordingly, Lancaster Colony understands that all references to "Respondent" are intended to refer solely to Barr, Inc.

2. Lancaster Colony objects to the scope of the Information Request to the extent it exceeds the years 1960 through 1981, the time period during which U.S. EPA's Site History indicates solvent

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reclamation was conducted at the Site, on the grounds that it is unreasonable, unduly burdensome, arbitrary and exceeds U.S. EPA's statutory authority.

3. Lancaster Colony objects to the Information Request's instruction that Lancaster Colony's written statements be notarized and that its response and the documents provided herewith be certified, including Instruction No. 9, on the grounds that this is not required under Section 104(e) of CERCLA and exceeds the Agency's statutory authority.

4. Lancaster Colony objects to Instructions Nos. 3 and 5 on the grounds that they are redundant, unreasonable and unduly burdensome.

5. Lancaster Colony objects to Instruction No. 6, relating to supplementation, on the grounds that it is unreasonable, unduly burdensome and exceeds U.S. EPA's statutory authority.

6. Lancaster Colony objects to Instruction No. 7 on the grounds that it is unreasonable, unduly burdensome and exceeds U.S. EPA's statutory authority.

7. Lancaster Colony objects to Instruction No. 8 to the extent it calls for information and documents in the possession of former employees, agents, contractors or attorneys, or which is otherwise not within the Company's current possession or control, on the grounds that it is unreasonable, unduly burdensome and exceeds U.S. EPA's statutory authority.

8. Lancaster Colony objects to Instruction No. 10 on the grounds that it is unreasonable, unduly burdensome and exceeds U.S. EPA's statutory authority.

9. Lancaster Colony objects to the Definitions to the extent they are vague, ambiguous, legal terms of art, or vary from the common usage or dictionary meanings of the terms defined, on the grounds that such definitions are unreasonable and exceed U.S. EPA's statutory authority. Lancaster Colony understands all such terms in accordance with their ordinary meaning.

10. Lancaster Colony objects to the Information Request to the extent that it seeks the disclosure of privileged information, work product, material prepared in anticipation of litigation or trial, or information otherwise protected from disclosure or discovery under applicable law.

11. Lancaster Colony objects to the Information Request to the extent that it seeks information, documents or materials already in the possession of U.S. EPA or its employees, officials or agents, including Ohio EPA, on the grounds that it is unreasonable and unduly burdensome.

12. Lancaster Colony objects to specific requests which seek conclusions of law or which may be read to assume conclusions of law as premises, on the ground that they exceed U.S. EPA's

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statutory authority. None of the following responses, nor the production of any documents or materials provided herewith, may be read to suggest any legal conclusion on behalf Lancaster Colony.

13. Lancaster Colony objects to all other aspects of the Information Request to the extent that they exceed the scope of U.S. EPA's statutory authority or are otherwise unreasonable, arbitrary or capricious.

14. Lancaster Colony submits this response without conceding that the Information Request or any part thereof is authorized under Section 104(e) of CERCLA, or that the Request is otherwise lawful or reasonable. Lancaster Colony expressly reserves all rights to challenge the relevancy, materiality or admissibility of any information, documents or materials provided herewith in any proceeding whatsoever, and reserves the right to challenge any subsequent request for information as appropriate. Lancaster Colony expressly reserves all rights to assert all defenses available under law in any action or proceeding.

#### RESPONSES TO REQUESTS FOR INFORMATION

Without waiving any objection, Lancaster Colony responds to each specific request for information as follows.

1. Identify all persons consulted in the preparation of the answers to these questions.

Lancaster Colony objects to Request No. 1 on the grounds that it is unduly burdensome and seeks irrelevant information. Without waiving any objection, Lancaster Colony states that the following persons were consulted in preparing the substantive responses contained herein:

Bill Reznicek, former controller and current vice president of  
another Lancaster Colony subsidiary;  
Patti Nelson, administrative assistant to Lancaster Colony's  
insurance department; and  
Tom Halm, former controller for Barr

None of these persons was able to provide any responsive information or documents.

2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these questions and provide copies of all such documents.

Lancaster Colony objects to Request No. 2 on the grounds that it is unduly burdensome and seeks irrelevant information. Without waiving any objection, Lancaster

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Colony states that except for the documents provided herewith, it was unable to locate any responsive documents.

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons.

Lancaster Colony objects to Request No. 3 on the grounds that it is vague, ambiguous and calls for speculation. Without waiving any objection, Lancaster Colony states that it is not aware of any such other persons.

4. List the EPA Identification Numbers of the Respondent.

Although Lancaster Colony believes that Barr, Inc. may have had an EPA Identification Number at one time, it has been unable to locate any record of any such number.

5. Identify the acts or omissions of any person, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting therefrom at the CRS Site.

Lancaster Colony objects to Request No. 5 on the grounds that it is vague and appears to seek a legal conclusion. Without waiving any objection, Lancaster Colony states that, on information and belief, it appears that numerous third parties may have committed acts or omissions which "may" have caused the alleged release or threat of release at the Site. These third parties may include any of the persons or entities mentioned in the U.S. EPA Site History, any of the persons mentioned in Request No. 7, the alleged PRPs other than Lancaster Colony listed in attachments to either the March 2, 2001 General Notice Letter or the June 26, 2001 Special Notice Letter; U.S. EPA, Ohio EPA and perhaps others. The nature of any such acts or omissions would be known by those third parties themselves.

6. Identify all persons including respondent's employees, who have knowledge or information about the generation, use, treatment, storage, disposal, or other handling of material at or transportation of materials to the Site (operating as Obitts Chemical Company or Chemical Recovery Systems, Inc., at 142 Locust Street, Elyria, Ohio).

Lancaster Colony objects to Request No. 6 on the grounds that it is vague and appears to seek a legal conclusion. Without waiving any objection, Lancaster Colony states that neither it nor Barr has any knowledge or information regarding any materials at or taken to the Site, nor are they aware of any other person having such information.

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7. Describe all arrangements that Respondent may have or may have had with each of the following companies and persons:

- a) Obitts Chemical Company
- b) Russell Obitts
- c) Chemical Recovery Systems, Inc.
- d) Peter Shagena
- e) James Freeman
- f) James "Jim" Jackson
- g) Donald Matthews
- h) Bob Spears
- i) Bill Bromley
- j) Carol Oliver
- k) Nolwood Chemical Company, Inc.
- l) Art McWood
- m) Chuck Nolton
- n) Michigan Recovery System, Inc.
- o) Chemical Recovery Systems of Michigan

Lancaster Colony objects to Request No. 7 on the grounds that it is vague and appears to seek a legal conclusion. Without waiving any objection, Lancaster Colony states that neither it nor Barr has any knowledge or information regarding any contractual relationship with any of these companies or persons.

8. Set forth the dates during which the Respondent engaged in any of the following activities:

- a) generation of hazardous materials which were sent to the CRS Site;
- b) transportation of any material to the CRS Site.

Lancaster Colony objects to Request No. 8 on the grounds that it is vague. Without waiving any objection, Lancaster Colony states that neither it nor Barr has any such information.

9. Identify all persons, including yourself, who may have arranged for disposal or treatment, or arranged for transportation for disposal or treatment, of materials, including, but not limited to, hazardous substances, at the CRS Site. In addition, identify the following:

- a) The persons with whom you or such other persons made such arrangements;
- b) Every date on which such arrangements took place;
- c) For each transaction, the nature of the material or hazardous substance, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the

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- process for which the substance was used or the process which generated the substance;
- d) The owner of the materials or hazardous substances so accepted or transported;
  - e) The quantity of the materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;
  - f) All tests, analyses, and analytical results concerning the materials;
  - g) The person(s) who selected the CRS Site as the place to which the materials or hazardous substances were to be transported;
  - h) The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received;
  - i) Where the person identified in g., above, intended to have such hazardous substances or materials transported and all evidence of this intent;
  - j) Whether the materials or hazardous substances involved in each transaction were transshipped through, or were stored or held at, any intermediate site prior to final treatment or disposal;
  - k) What was actually done to the materials or hazardous substances once they were brought to the CRS Site;
  - l) The final disposition of each of the materials or hazardous substances involved in such transactions;
  - m) The measures taken by you to determine the actual methods, means, and site of treatment or disposal of the material and hazardous substance involved in each transaction;
  - n) The type and number of containers in which the materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the CRS Site, and all markings on such containers;
  - o) The price paid for (i) transport, (ii) disposal, or (iii) both of each material and hazardous substance;
  - p) All documents containing information responsive to a - o above, or in lieu of identification of all relevant documents, provide copies of all such documents;
  - q) All persons with knowledge, information, documents responsive to a - p above.

Lancaster Colony objects to Request No. 9 on the grounds that it is vague and appears to seek a legal conclusion. Without waiving any objection, Lancaster Colony states that neither it nor Barr is aware of any such persons. See also response to Request No. 5.

10. Identify all liability insurance policies held by Respondent from 1960 to the present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden,

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nonsudden, or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

Lancaster Colony objects to Request No. 10 on the grounds that it is overbroad, unreasonable, unduly burdensome, seeks irrelevant information and exceeds U.S. EPA's statutory authority. Without waiving any objection, Lancaster Colony states that the only insurance policies it has been able to locate covering any portion of the period from 1960-1981 are enclosed.

11. Provide copies of all income tax returns, including all supporting schedules, sent to the Federal Internal Revenue Service in the last five years.

Lancaster Colony objects to Request No. 11 on the grounds that it is unreasonable, unduly burdensome, seeks irrelevant information and exceeds U.S. EPA's statutory authority. Without waiving any objection, Lancaster Colony states that income tax returns for Barr, Inc. during the last five years are enclosed.

12. If Respondent is a Corporation, respond to the following requests:
- a) Provide a copy of the Articles of Incorporation and By-Laws of the Respondent.
  - b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.
  - c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.
  - d) Identify the Parent Corporation and all Subsidiaries of the Respondent.

Lancaster Colony objects to Request No. 12 on the grounds that it is unreasonable, unduly burdensome, seeks irrelevant information and exceeds U.S. EPA's statutory authority. Without waiving any objection, Lancaster Colony states that responsive documents for Barr, Inc. are enclosed.

13. If Respondent is a Partnership, respond to the following requests:
- a) Provide copies of the Partnership Agreement;
  - b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission;
  - c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.
  - d) Identify all subsidiaries of the Respondent.

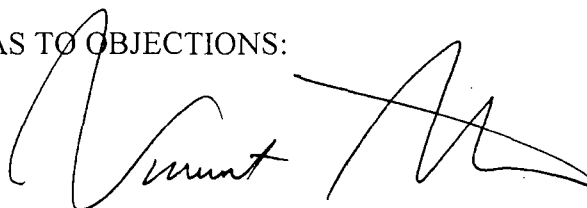
Not applicable.

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14. If Respondent is a Trust, respond to the following requests:
- a) Provide all relevant agreements and documents to support this claim.
  - b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.
  - c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.

Not applicable.

AS TO OBJECTIONS:

A handwritten signature in black ink, appearing to read "Vincent Atriano", is written over the text "AS TO OBJECTIONS:". The signature is stylized with a large initial "V" and a long horizontal stroke.

Vincent Atriano

Enclosures

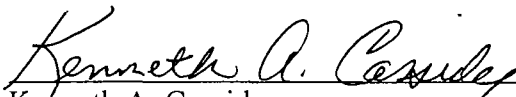


VERIFICATION

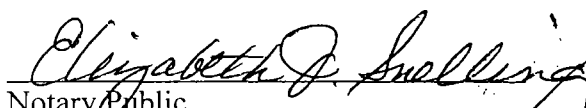
STATE OF OHIO                    )  
  ) SS:  
COUNTY OF FRANKLIN)

I, Kenneth A. Cassidy, being first duly sworn, depose and state:

That I am Manager, Corporate Insurance and Environmental Affairs, for Lancaster Colony Corporation; that the matters stated in the foregoing responses to U.S. EPA, Region 5's Information Request are not all within my personal knowledge and that to the best of my knowledge there is no single officer or employee of Lancaster Colony Corporation who has personal knowledge of all such matters; that the statements and documents contained in this response have been assembled by authorized employees of Lancaster Colony; and that I am informed and believe that said responses are true and correct.

  
Kenneth A. Cassidy

Subscribed to and sworn before me this 6th day of August, 2001.

  
Notary Public

**ELIZABETH J. SNELLING**  
**NOTARY PUBLIC, STATE OF OHIO**  
**MY COMMISSION EXPIRES 04-17-05**